

EXHIBIT I

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RICHARD W. WIEKING
CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

PLAINTIFFS IN PRO PER

TEH

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

HANA HILSEN RATH AND OLIVER
HILSEN RATH,

Case No. 07

3193

Plaintiffs,

COMPLAINT FOR MALICIOUS
PROSECUTION, CIVIL CONSPIRACY
AND EXTORTION

v.

NIXON PEABODY LLP, GLENN
WESTREICH, BETH MITCHELL, AND
DOES 1-10,

[JURY TRIAL DEMAND]

Defendants.

I hereby certify that the annexed
instrument is a true and correct copy
of the original on file in my office.
ATTEST

INTRODUCTION

RICHARD W. WIEKING
Clerk, U.S. District Court
Northern District of California

Deputy Clerk
Date 7-18-07
Janvrin Holdings Limited

1. In May 2007, in Case No: 4:02-cv-1068, Janvrin Holdings Limited et al v. Hilsenrath et al. the Federal Court determined that Janvrin et al. invaded the Hilsenraths' privacy and proceeded to blackmail Hilsenrath and his company, while causing significant damage, financial and personal.
2. Janvrin et al effected their scheme by conspiring with their American attorneys: Glenn WESTREICH, Beth MITCHELL-Appelbaum and others in the lawfirm of Nixon Peabody LLP.

- 1 3. Defendants WESTREICH, MITCHELL and Nixon Peabody effected
2 their role in the conspiracy by means of a bogus, malicious
3 litigation against the Hilsenraths.
- 4 4. This malicious litigation in its various forms lasted 7 years,
5 from June 2000 to March 2007. Nixon Peabody and its staffers
6 used their legal practice and the federal legal system as
7 means to unlawfully hurt the plaintiffs.
- 8 5. Nixon Peabody's legal practice was used as a camouflage for
9 the implementation of a sophisticated extortion plan.
- 10 6. By this present complaint, plaintiffs Hana and Oliver
11 Hilsenrath are now seeking a judgment against Janvrin's co-
12 conspirators, the firm and the attorneys of Nixon Peabody LLP
13 and others, pursuant to the separate and independent
14 responsibility of each and every co-conspirator who took part
15 at the conspiracy.

16 THE PARTIES

17 Plaintiffs

- 18 7. Plaintiffs Hana and Oliver Hilsenrath (referenced collectively
19 as THE HILSENATHS) are private individuals and professionals.
20 The Hilsenrath family were the largest shareholders of US
21 Wireless Corporation (USWC), a former publicly traded
22 California based company. Oliver HILSENATH was the founder,
23 Chairman and CEO of US Wireless Corporation.

24 Defendants

- 25 8. Defendants Glenn WESTREICH (WESTREICH) and Beth MITCHELL,
26 formerly Appelbaum, (MITCHELL) are individuals, attorneys and
27 partners of the Nixon Peabody LLP lawfirm of San Francisco
28 California.

- 1 9. At all times referenced in this pleading, WESTREICH and
2 MITCHELL were acting within the scope of their authority as
3 partners/employees of Nixon Peabody LLP (NIXON).
4 10. Does 1-10 are other individuals related to Nixon Peabody LLP,
5 WESTREICH, MITCHELL or Janvrin et al.

6 Defendants' clients and co-conspirators

- 7 11. Defendants' clients and co conspirators, Janvrin Holdings
8 Limited, Crossgar Limited and Ryburn Limited (Janvrin at al)
9 are three shell corporations set up, owned, financed, operated
10 and closed down by Equity Trust (Jersey) Limited (EQUITY) a
11 large financial institution based in Jersey/UK.
12 12. At all relevant time to this complaint Equity Trust were
13 Janvrin et al's owners and shared with Janvrin et al all
14 personnel, directors, secretaries, nominee shareholders, legal
15 advisers, banking facilities, funding, communication
16 facilities and office facilities.
17 13. Janvrin et al never had management, interests, officers,
18 facilities, funds or facilities outside those of-and-by Equity
19 Trust.
20 14. At all relevant time to this complaint Melvyn Kalman and John
21 Perkins were executives of both Equity trust and Janvrin et
22 al.

23 **JURISDICTION AND VENUE**

- 24 15. The Federal Court has jurisdiction over this case and the
25 venue in the Northern District of California is adequate
26 pursuant to 28 U.S.C. §1331, §1332.
27 16. Defendants' clients and co conspirators are foreign (non-US)
28 corporations.

17. This case is related to two other federal cases: 4:02-cv-01068-CW-BZ and 3:03-cr-00213-WHA

LIMITATIONS OF STATUTE

18. This present complaint stems from defendants malicious prosecution in the case Janvrin et al v. Hilsenrath et. al. (4:02-cv-1068 CW,BZ). Plaintiffs were released from representation in the above case on March 12, 2007 - three months ago. No limitations of statute are therefore applicable to this complaint.

THE FACTS

19. In March 2000, three Jersey/UK based corporations: Janvrin, Rayburn and Crossgar hired defendants NIXON et al. to implement a scheme to improperly sell expired securities of US Wireless Corporation in the open market.
20. WESTREICH, MITCHELL and NIXON proceeded to file litigation in federal court to provide the vehicle to coerce US Wireless and its management to give in to Janvrin and NIXON's pressure to trade the securities.
21. In order to further their scheme, in and about November 2000, Janvrin et al. conspired¹ with NIXON et al and others to:
- a. unlawfully obtain, use and trade private financial records of the HILSENATHS,

¹ *Unruh v. Truck Ins. Exch.*, 7 Cal. 3d 616, *

To state a cause of action for conspiracy the complaint must allege: (1) the formation and operation of the conspiracy; (2) the wrongful act or acts done pursuant thereto; and (3) the damage resulting. (*Mox Incorporated v. Woods*, *supra*; *Orloff v. Metropolitan Trust Co.* (1941) 17 Cal. 2d 484, 488 [110 P.2d 396]; see *Wise v. Southern Pacific Co.* (1963) 223 Cal. App. 2d 50, 64-65 [35 Cal. Rptr. 652]; *Witkin, op. cit. supra*, Pleading, § 774, p. 2390.)

"Malice is properly pleaded by alleging the wrongful motive, intent or purpose." (3 *Witkin, op. cit. supra*, Pleading, § 766, at p. 2383.) A general allegation of such intent is sufficient to support a claim for exemplary damages. (3 *Witkin, op. cit. supra*, Pleading, § 769, p. 2385.)

b. blackmail the HILSENATHS and others in his company with making those records public,

c. impeach the company and hurt its publicly traded stock unless a favorable arrangement was made on behalf of Janvrin et al. and NIXON.

22. WESTREICH and MITCHELL personally and knowingly accessed confidential financial records of the HILSENATHS. The retrieval of records occurred, but was not limited, to a week long effort in London, in which WESTREICH and MITCHELL selected, retrieved and photocopied HILSENATH family records and brought them back to California to put them at use as decided with their co-conspirators.

23. One of the 9 participants at the broadly attended London documents harvesting meeting describes the events in a sworn affidavit (see Oliver Hilsenrath Declaration):

"The abovementioned confidential Hilsenrath records were handed to the Nixon Peabody attorneys with the objective to impeach Hilsenrath with his holdings in offshore trusts and get the CEO Hilsenrath fired. Hilsenrath was identified as the primary hurdle in the Janvrin litigation."²

24. On several documented occasions between December 2000 and April 2001, defendants made specific threats to employees and advisors of US Wireless stating that they will disturb the

² *Wynn v. NBC*, 234 F. Supp. 2d 1067. The elements for a claim of tortious interference with contractual relations are: (1) a valid contract between plaintiff and a third party; (2) defendant's knowledge of this contract; (3) defendant's intentional acts designed to induce a breach or disruption of the contractual relationship; (4) actual breach or disruption of the contractual relationship; and (5) resulting damage.

As an element of a tortious interference with contractual relations claim, plaintiffs must plead facts sufficient to support an inference that defendants intended to cause the alleged breach

1 company by use of the stolen records if their demands are not
2 met.

3 25. Under the pressure of the above threats, the Board of
4 Directors of USWC (1) settled the dispute with Janvrin et al
5 on the basis of \$4.5 million in cash, 2.5 million shares of
6 stock of USWC and 750,000 options of Mr. HILSENATH's holdings
7 and (2) launched a secret investigation of the above
8 allegations of impropriety against USWC's CEO Oliver
9 HILSENATH as alleged by the Nixon et al.

10 26. In May 2001 the USWC Board of Directors fired founder and CEO
11 Oliver HILSENATH as the result of that investigation.

12 27. USWC did not survive the dismissal of its CEO, and went
13 bankrupt 6 weeks later, rendering useless the 2.5 million
14 shares in the hands of Janvrin et al.

15 28. In March 2002, defendants NIXON initiated a new, bogus,
16 litigation against HILSENATH, USWC, its management, attorneys
17 and accountants.

18 29. This time defendants NIXON claimed that they were surprised
19 and financially hurt by the investigation against HILSENATH
20 and the subsequent collapse of US Wireless.

21 30. This was a second, new phase of the ongoing malicious
22 prosecution given that it was NIXON themselves that instigated
23 the internal investigation in order to exercise pressure on
24 HILSENATH.

25 31. In 2005, upon the discovery of tangible evidence of the
26 invasion of privacy, of the organized trade and use of
27 HILSENATH family financial documents, Hana and Oliver
28 HILSENATH filed a counterclaim against Janvrin et al.

32. In 2007, the Court ordered representatives or trustees of
Janvrin et al, Nixon Peabody's clients to show up in Court, in
person, if they wish to continue to prosecute their seven year
old case.

1 33. The "case" was but a sophisticated cover-up scheme planned and
2 executed by Janvrin and NIXON. Once the cover was of no use
3 and possibly even a risk, no one from the British trust,
4 NIXON's clients, would bother risk a trip to the United
5 States.

6 34. Therefore the plaintiffs in that litigation [4:02-cv-1068]
7 simply stood the Court up --NO representative or trustee of
8 Janvrin showed up.

9 35. The Court proceeded to dismiss Janvrin's complaint, and
10 ordering Janvrin's default with respect to the HILSENATH
11 counterclaim.

12 36. At the same time, the HILSENATH's applied for the Court to
13 add NIXON et al to their counterclaim.

14 37. NIXON avoided to be added as counterdefendants stating
15 primarily that this would prejudice their clients, Janvrin et
16 al.

17 38. The Court accepted NIXON's argument and determined that the
18 addition of NIXON as counterdefendants would prejudice Janvrin
19 et al who would loose their legal representation.

20 39. Less than a week after avoiding to be added to the litigation
21 as defendants, NIXON moved to be released from representing
22 Janvrin and were indeed released.

23 40. At the same time WESTREICH also briefed the Court that his
24 clients: Janvrin, Rayburn & Crossgar do not exist anymore for
25 an unknown time.

26 41. Plaintiffs Hana and Oliver HILSENATH therefore conclude that
27 WESTREICH, MITCHELL and Nixon Peabody did not have, for
28 considerable time, a client in their legal pursuit of Janvrin
v. HILSENATH, but were litigating and seeking financial
benefits from the HILSENATHS for themselves and their firm.

42. Further, Nixon Peabody, WESTREICH and MITCHELL are not
conflicted with their former clients anymore. Therefore

1 attorney-client prejudice is not in the way of this current
2 complaint

3 43. Between 2005 and 2006, in a broad US government investigation
4 it was determined that the documents used by NIXON at al and
5 Janvrin, Rayburn and Crossgar to impeach Mr. HILSENATH, were
6 not related to improper financial transactions and, in fact,
7 the USWC CEO did not engage in defrauding USWC or its
8 shareholders.

9 44. The HILSENATH's, who had the vast majority of their assets
10 invested in USWC stock, lost the value of 6.5 million shares
11 of USWC worth over \$26 million at the company's last day of
12 trade ever: May 29, 2001; Thus rendering the damage
13 irreparable.

14 45. As further result of defendants' malicious prosecution, the
15 HILSENATH's lost a severance package, lost several years of
16 wages and income and experienced severe adversity resulting
17 from defendants' defamation.

18 CAUSES OF ACTION - GENERAL

19 MALICIOUS PROSECUTION, LITIGATION PRIVILEGE AND RULE 47(b)

20 46. It is expected that the initial arguments of the defendants in
21 this case will be that (1) plaintiffs have the duty to comply
22 with the prefiling requirement of section 1714.10 and (2) that
23 defendants can invoking the litigation privilege - rule 47(b)

24 47. None are successful defenses.

25 48. Courts have established the exception to the prefiling rule in
26 cases of malicious prosecution:

27 "It is well established that a wholly independent
28 cause of action for malicious prosecution may be
pled against an attorney without reference to a

1 separate cause of action for civil conspiracy or
2 any need to meet the procedural prefiling
3 requirements of section 1714.10".³

4 49. And as to the litigation privilege:

5 "The litigation privilege [Cal. Civ. Code §
6 47(b)] does not apply to claims of malicious
7 prosecution. Malicious prosecution actions are
8 permitted because the policy of encouraging free
9 access to the courts is outweighed by the policy
10 of affording redress for individual wrongs when
11 the requirements of favorable termination, lack
12 of probable cause, and malice are satisfied. This
13 is perhaps the only exception to the absolute
14 nature of the litigation privilege".⁴

15 50. It should be noted that the "veil" of protection of actions
16 and communications offered by Rule 47(b) was the very cover
17 sought by Janvrin and Nixon Peabody when they embarked on the
18 (failed) prosecution of their cases. The very use of Court
19 events and the background of the ongoing litigation as the
20 stage for the extortion and for the further "squeeze" of the
21 HILSENATHS were with the litigation privilege in mind.

22 EVIDENCE OF MALICIOUS PROSECUTION

23 51. Next, Nixon Peabody, WESTREICH and MITCHELL will argue that
24 there is no strong showing of a malicious prosecution and the
25 allegation is merely used to circumvent the prefiling
26 requirement.

27 52. Again,- Not so.

28 53. California law is clearly identifying the test elements for
malicious prosecution:

³ Westamco Investment Co. v. Lee (1999) 69 Cal.App.4th 481, 483, 485-488.

⁴ Flores v. Emerich & Fike, 2006 U.S. Dist, Flores v. Emerich & Fike, 416 F. Supp. 2d 885

"The elements of a prima facie case of malicious prosecution are (1) a judicial proceeding favorably terminated; (2) lack of probable cause; and (3) malice. Malicious prosecution actions are disfavored under California law. The tort of malicious prosecution has historically been carefully circumscribed so that litigants with potentially valid claims will not be deterred from bringing their claims to court by the prospect of a subsequent malicious prosecution action. This is an evidentiary burden, not a pleading requirement. The court must consider the pleadings and the evidence submitted by the parties; it cannot weigh the evidence but instead must simply determine whether the plaintiff's evidence would, if credited, be sufficient to meet its burden of proof"⁵.

54. The facts in this complaint show clearly:

- a. The litigation in which the malicious prosecution occurred has terminated favorably to the HILSENATHS (4:02-cv-1068 CW, BZ)
- b. The lead argument of this malicious prosecution (4:02-cv-1068 CW, BZ - filed in 2002) was that NIXON were taken by surprise of the internal investigation that they themselves instigated.
- c. As to malice, it is enough to say that Nixon Peabody et al were prosecuting the HILSENATHS for a trust set up especially for this litigation and named "THE REVENGE TRUST" and the attorneys proceeded to litigate the case even after their client abandoned the litigation. More so, plaintiffs in this current case, Hana and Oliver HILSENATH, believe that the Court and a jury will be astonished at the degree of malice and lack of ethics in that prosecution. It would be a matter of public service

⁵ *Flores v. Emerich & Fike*, 2006 U.S. Dist. *Flores v. Emerich & Fike*, 416 F. Supp. 2d 885

1 to unmask, punish and extricate such legal practices from
2 our system.

3
4 **FIRST CAUSE OF ACTION**

5 **(NIXON - co-conspirators in a scheme to blackmail)**

6 Plaintiffs Hana and Oliver HILSENDRATH reallege and incorporate into
7 this cause of action each and every paragraph in this complaint.

8 55. Defendants NIXON, WESTREICH and MITCHELL were full partners at
9 the joint scheme with Janvrin.

10 56. Janvrin were nothing but paper companies. No one from their
11 British home ever arrived to California or talked with any US
12 Wireless staffers. They relied on WESTREICH and colleagues to
13 actually work the conspiracy.

14 57. Janvrin et al were also long dead and closed while the bogus
15 conspiracy was continuing to seek to squeeze money from the
16 HILSENDRATHS - all fueled and driven by the NIXON co-
17 conspirators still hoping to meet their goals.

18 58. In a May 16 recommendation for judgment, the Federal court
19 recommended to award the Hilsenraths \$15 million in damages
20 and prejudgment interest.

21 59. Nixon et al have equal and separate responsibility towards
22 their victims; the Hilsenraths are therefore entitled to \$15
23 million from defendants in damages and prejudgment interest.

24 WHEREFORE, defendant Oliver HILSENDRATH prays relief as set forth
25 below.

26 **SECOND CAUSE OF ACTION**

27 **(Aiding and abetting⁶ in a blackmail scheme as part of the**
28 **prosecution of Janvrin v. Hilsenrath)**

⁶ *United States v. Barnett*, 667 F.2d 835 An aider and abettor is liable for any criminal act which in the ordinary course of things was the natural or probable consequence of the crime that he advised or commanded, although such consequence may not have been intended by him.

60. Defendants aided and abetted a blackmail scheme that resulted in the abovementioned settlement agreement with US Wireless.

61. Mr. HILSENATH is entitled to this Court's declaration that defendant should compensate Mr. HILSENATH in an amount equal to the extorted settlement, an amount of \$7.5 million.

WHEREFORE, defendant Oliver HILSENATH prays relief as set forth below.

THIRD CAUSE OF ACTION

(Constructive trust - re Second Cause of Actions)

Plaintiff Oliver HILSENATH realleges and incorporates into this cause of action each and every paragraph in this complaint.

It is not essential that the accessory know the modus operandi of the principal. It is also not necessary that the person accused of aiding and abetting know all the details of the crime or all the persons who were perpetrating the crime

Chance World Trading E.C. v. Heritage Bank of Comm..., 2004 U.S. Dist. To properly state a claim for aiding and abetting the tortious breach of a duty, a plaintiff must plead that a defendant: (1) had knowledge that another's conduct constitutes a breach of a duty; and (2) substantially assisted or encouraged that breach

Liability under a civil conspiracy requires a co-conspirator have an independent duty to a plaintiff. Tort recovery for civil conspiracy is only allowed against a party who already owes the duty, under substantive tort law, that was violated.

Under California law, there are two major distinctions between aiding and abetting and civil conspiracy which explain why an independent duty requirement is not an element of aiding and abetting. First, conspirators are held jointly liable for the tort committed, whereas aiders and abettors are not held liable as joint tortfeasors for the underlying tort. In a civil conspiracy, because liability is premised on the commission of a single tort, it is logical that all conspirators must be legally capable of committing the wrong. Second, in aiding and abetting, the defendant's conduct must be a substantial factor in causing the harm, while conspiracy requires no proof that the conspirator did anything that actually caused the harm. Consequently, a claim for aiding and abetting does not require that the defendant owe an independent duty to the plaintiff.

Under California law, the second element of civil aiding and abetting of a tort, substantial assistance, requires the plaintiff to allege that the actions of the aider/abettor proximately cause the harm on which the primary liability is predicated. In other words, the assistance must have been a substantial factor in causing the harm suffered

To properly state a claim for aiding and abetting the tortious breach of a duty, a plaintiff must plead that a defendant: (1) had knowledge that another's conduct constitutes a breach of a duty; and (2) substantially assisted or encouraged that breach.

62. Mr. HILSENATH is entitled to this Court's order imposing a constructive trust on all funds and consideration due to him from defendants in connection with the abovementioned 2001 Settlement Agreement.

WHEREFORE, plaintiff Oliver HILSENATH prays relief as set forth below.

FOURTH CAUSE OF ACTION

(Invasion of privacy as part of the prosecution of
Janvrin v. Hilsenrath)

Plaintiff Oliver HILSENATH realleges and incorporates into this cause of action each and every paragraph in this complaint.

63. Defendants conspired and invaded Mr. and Mrs. HILSENATH's privacy⁷, reviewed and copied their personal information, and put it to their personal use. The invasion of privacy should be classified as "intrusion of seclusion"⁸.

64. The theft of the private documents⁹, their distortion and use to slander per se¹⁰ and ultimate unlawful dissemination of the documents caused: (1) Mr. HILSENATH's termination as CEO¹¹ -

⁷ Intrusion into the seclusion of another: *Fisher v. Quality Hyundai, Inc.*, 2002 U.S. Dist.

⁸ That a plaintiff has received damages for his claim of unreasonable public disclosure of private facts does not preclude an award of damages for his claim of intrusion upon seclusion: *Doe v. High-Tech Inst., Inc.*, 972 P.2d 1060

⁹ The tort is completed with the obtaining of the information by improperly intrusive means: *Pearson v. Dodd*, 133 U.S. App. D.C. 279

¹⁰ "Slander per se" categories include charges that the plaintiff has committed a serious crime ... the statement "you stole the money" has been held to be slander per se. *Hruby v. Kalina*, 424 N.W.2d 130 (Neb. 1988) - *Gilbert Law Summaries/Torts: Slander per se-special damages not required* IS12431

¹¹ *Applied Equip. Corp. v. Litton Saudi Arabia*, 7 Cal. 4th 503, To recover in tort for intentional interference with the performance of a contract, a plaintiff must prove: (1) a valid contract between plaintiff and another party; (2) defendant's knowledge of the contract; (3) defendant's intentional acts designed to induce a breach or disruption of the contractual relationship; (4) actual breach or disruption of the contractual relationship; and (5) resulting damage.

Wynn v. NBC, 234 F. Supp. 2d 1067 The elements for a claim of tortious interference with contractual relations are: (1) a valid contract between plaintiff and a third party; (2) defendant's knowledge of this contract; (3) defendant's intentional acts designed to induce a breach or disruption of the contractual relationship; (4) actual breach or disruption of the contractual relationship; and (5) resulting damage. As an

1 loss of severance of \$3.18 million, (2) indefinite stop of
 2 trade of US Wireless stock - the HILSENATHS' loss of value of
 3 5.3 million shares of stock at \$2.94/share at the last day of
 4 trade¹² - value of \$15.58 million, (3) US freeze action of \$7.3
 5 million assumed embezzled per defendant's fake allegations,
 6 (4) legal fees to attorneys of total \$1.6 million and (5)
 7 Personal time invested and self representation at
 8 \$275,000/annum¹³ and a loadstar doubling the value of time
 9 invested¹⁴ and amounting to personal time, with loadstar of
 10 \$3.2 million for the time-frame 2001 to 2007.

65. Plaintiffs seek DAMAGES (before exemplary damages) of \$30.76
 11 million.

WHEREFORE, defendant Oliver and Hana HILSENATH pray relief as set
 12 forth below.

13 FIFTH CAUSE OF ACTION

14 (Intrusion of seclusion as part of prosecution of Janvrin v.
 15 HILSENATH - Exemplary Damages)

16 Plaintiff Oliver HILSENATH realleges and incorporates into this
 17 cause of action each and every paragraph in this complaint.

18 66. Defendant further conspired to invade plaintiffs' privacy and
 19 use distorted financial records to unfairly remove Mr.
 20 HILSENATH from his post as CEO.

21 67. Defendants' actions resulted in plaintiffs' loss of good name
 22 and good reputation¹⁵.

23
 24 element of a tortious interference with contractual relations claim, plaintiffs must plead facts
 25 sufficient to support an inference that defendants intended to cause the alleged breach

12 May 29, 2001 - first business day after CEO fired - last day of trade ever in the stock of the company

13 Last salary earned before termination from US Wireless

14 Pursuant to *Guam Soc'y of Obstetricians & Gynecologists v. Ada*, 100 F.3d 691

15 The key to proving a defamation action is showing injury to reputation: *Smith v. Mission Assocs.*, 225 F.
 28 Supp. 2d 1293

1 68. Plaintiffs seek relief including general, special and
 2 exemplary damages/punitive damages from Intrusion of Seclusion
 3 pursuant to Civil Code Sect. 1708.8 (d) and Civil Code Section
 4 48 a. 2.¹⁶ -- resulting in triple damages of \$92.28 million.
 5 WHEREFORE, defendant Oliver HILSENATH prays relief as set forth
 6 below.

6 SIXTH CAUSE OF ACTION

7 (Hana HILSENATH damages - invasion of privacy as part of
 8 prosecution of Janvrin v. Hilsenrath)

9
 10 Plaintiff Hana HILSENATH realleges and incorporates into this
 11 cause of action each and every paragraph in this complaint.

12 69. Hana HILSENATH is a mother of six children, 4 of whom are
 13 minors, and does not work outside the home.

14 70. As a legal result of the invasion of privacy by defendants
 15 Mrs. HILSENATH has suffered fear, anguish, and illness; has
 16 been exposed to personal threats by shareholders of U.S.
 17 Wireless; and has suffered constant fear of retaliation and
 18 revenge to herself and/or her children.

19 71. Mrs. HILSENATH has also seen the structure and security of
 20 her family threatened by the disclosure of her family's
 21 private information, and has lost the vast majority of her
 22 personal wealth.

23 72. As the result of defendants' actions, Mrs. HILSENATH suffered
 24 loss of tangible assets in value of \$7.3 million, which she
 25 requires to recover from defendants.

26 WHEREFORE, defendant Hana HILSENATH prays relief as set forth
 27 below.

28 ¹⁶ These type of damages do not preclude pursuit of multiple theories: *Hubbard Business Plaza v. Lincoln Liberty Life Ins. Co.*, 596 F. Supp. 344

SEVENTH CAUSE OF ACTION

(Hana HILSENATH exemplary damages - invasion of privacy as part of the prosecution of Janvrin v. Hilsenrath)

Plaintiff Hana HILSENATH realleges and incorporates into this cause of action each and every paragraph in this complaint.

73. Hana HILSENATH has suffered damages as the result of "intrusion of seclusion"¹⁷.

74. The TOTAL RELIEF sought under this cause of action include general, special and exemplary damages/punitive damages resulting from Intrusion of Seclusion pursuant to Civil Code Sect. 1708.8 (d) and Civil Code Section 48 a. 2.¹⁸ -- resulting in triple damages of \$21.9 million.

WHEREFORE, defendant Hana HILSENATH prays relief as set forth below.

EIGHTH CAUSE OF ACTION

(Malicious prosecution of second case Janvrin v. Hilsenrath)

Plaintiffs Hana and Oliver HILSENATH reallege and incorporate into this cause of action each and every paragraph in this complaint.

75. In 2002, NIXON at al, filed a new lawsuit against the HILSENATHS and others on the knowingly false pretense that their did not know before the 2001 settlement that USWC initiated an investigation into Mr. HILSENATH's financials.

76. It was however NIXON at al themselves that instigated the investigation as also determined by the federal Court.

77. This act of malicious prosecution lasted 5 years and ended only in March 2007.

¹⁷ That a plaintiff has received damages for his claim of unreasonable public disclosure of private facts does not preclude an award of damages for his claim of intrusion upon seclusion: *Doe v. High-Tech Inst., Inc.*, 972 P.2d 1060

¹⁸ These type of damages do not preclude pursuit of multiple theories, *Hubbard Business Plaza v. Lincoln Liberty Life Ins. Co.*, 596 F. Supp. 344

1 78. In the course of this malicious and knowingly frivolous
2 lawsuit, NIXON were seeking over \$7 million specifically from
3 the HILSENATHS.

4 79. NIXON were actively banking on the perceived weakness of the
5 HILSENATH's after the USWC scandal instigated by NIXON
6 themselves.

7 "In the case of the tort of malicious
8 prosecution, the fundamental interest
9 protected is that of every person to be
10 free from unjustifiable and unreasonable
11 litigation initiated without probable
12 cause, and the corresponding duty is to
13 refrain from initiating such unjustified
14 litigation".¹⁹

15 80. In 2005, defendant Nixon Peabody with false declarations from
16 MITCHELL and WESTREICH, sought to obtain a \$7 million judgment
17 against HILSENATH from the Federal Court in California.

18 81. The HILSENATHS lived for years with fear of a possible
19 judgment of that size as the result of this bogus and
20 malicious litigation.

21 82. Plaintiffs seek declaratory and exemplary damages from
22 defendants in an amount in excess of triple that amount - \$21
23 million.

24 WHEREFORE, defendants Hana and Oliver HILSENATH pray relief as set
25 forth below.

26 NINTH CAUSE OF ACTION

27 (Recommendation to Disbarment - WESTREICH, MITCHELL)

28 ¹⁹ *Sheldon Appel Co. v. Albert & Oliker* (1989) 47 Cal.3d 863, 881-882, 254 Cal. Rptr. 336, 765 P.2d 498.

1 Plaintiffs Hana and Oliver HILSENDRATH reallege and incorporate into
2 this cause of action each and every paragraph in this complaint.

3 83. Defendants WESTREICH and MITCHELL violated the oath taken as
4 practitioners of law.

5 84. WESTREICH and MITCHELL knowingly abused the privileges of
6 familiarity with the law, the legal process, the access to the
7 Court and their privileges as officers of the Court to promote
8 a crime, participate in it, aid and abet violations of legal,
9 moral and ethical principles.

10 85. No Court, federal or otherwise, can anymore regard WESTREICH
11 and MITCHELL as trusted officers of the Court.

12 86. No person can trust WESTREICH and MITCHELL to represent him or
13 her in good faith.

14 87. No person should face WESTREICH and MITCHELL in Court as
15 opponents knowing that principles of law, morals or ethics
16 will not bar WESTREICH or MITCHELL from hurting him or her.

17 88. Defendants' WESTREICH and MITCHELL's actions brought them to a
18 point of no return.

19 89. Plaintiffs request the Court's recommendation to bar
20 defendants WESTREICH and MITCHELL from practicing law in
21 federal and California Court.

22 TENTHS CAUSE OF ACTION

23 (Nixon Peabody - Order to compel: Special controls)

24 Plaintiffs Hana and Oliver HILSENDRATH reallege and incorporate into
25 this cause of action each and every paragraph in this complaint.

26 90. Defendant Nixon Peabody either actively participated or acted
27 with reckless neglect by harboring WESTREICH and MITCHELL's
28 conduct over seven years from 2000 to 2007.

91. One must worry that this large law firm with offices in
various jurisdictions does not have the controls, or the

1 corporate standards or the corporate culture necessary to
2 secure proper practice of law on its premises.

3 92. Plaintiffs request a Court order to compel defendant Nixon
4 Peabody to introduce appropriate internal control systems
5 targeted to prevent reoccurrence of events similar to those in
6 the current case.

7 **SCIENTER**

8
9 93. In addition to abovementioned courses of action, defendants
10 NIXON, WESTREICH and MITCHELL acted in bad faith and had
11 clear, provable knowledge that the allegations of impropriety
12 against plaintiffs were false and misleading.

13 94. Defendants knew that the knowingly false and misleading
14 accusations would adversely affected the financial situation
15 of the plaintiffs, and adversely affected their ability to
16 conduct business, control their lives and maintain their good
17 name and good reputation in their community.

18 95. Defendants acted knowingly to financially, emotionally and
19 socially hurt plaintiffs.

20 **PRAYER**

21 96. By way of this complaint, Mr. and Mrs. HILSENATH pray relief
22 as follows:

23 a. That this Court order defendants to pay plaintiffs Hana
24 and Oliver HILSENATH, for co-conspiring against them
25 with Janvrin et al, an amount equal to \$15 million in
26 damages and prejudgment interest. This amount shall be
27 equal to the federal Court recommended damages to be paid
28 by Janvrin to the Hilsenraths for Janvrin's participation
in the same blackmail conspiracy.

- b. That this Court order defendants to pay to plaintiff Mr. HILSENATH for aiding and abetting the extortion scheme that lead to the 2001 settlement with their clients, an amount equal to his share of that settlement -- \$7 million.
- c. That this Court impose a constructive trust on any amounts reimbursed to plaintiffs in connection to the 2001 improper settlement.
- d. That Mr. HILSENATH recover damages for invasion of privacy and breach of governing statutes at least in the amount of \$30.76 million.
- e. That Mr. HILSENATH recover exemplary damages resulting from intrusion to seclusion in an amount not less than \$92.28 million.
- f. That Mrs. HILSENATH recover damages for defendants scheme to extort, defame and invade her privacy, at least in the amount of \$7.3 million.
- g. That Mrs. HILSENATH recover exemplary damages resulting from defendants' intrusion to seclusion in an amount no less than \$21.9 million.
- h. That Mr. and Mrs. HILSENATH recover damages and exemplary damages resulting from defendants' malicious prosecution in an amount no less than \$21 million.
- i. That plaintiffs recover prejudgment interest on sums with which they parted, and on all damages they recover.
- j. That the Court recommends barring defendants WESTREICH and MITCHELL from practicing' law in federal and California Court.
- k. That the Court instructs defendant Nixon Peabody to introduce appropriate corporate controls such as to prevent malicious practices by the firm in the future.